

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

**CORELANIUS T. PHILLIPS,
ADC #99996
VS.**

PLAINTIFF

2:04CV00028

JAMES T. BANKS, et al.

DEFENDANTS

Consolidated With:

**CORELANIUS T. PHILLIPS,
ADC #99996**

PLAINTIFF

5:04CV00218

LARRY NORRIS, et al.

DEFENDANTS

ORDER

Plaintiff Phillips filed a Notice of Appeal¹, appealing an Order granting partial summary judgment with respect to the allegations made in the claims against defendants Norris, James, Williams, Mathis, Harmon and Gibson in consolidated case 5:04CV00218; and denying summary judgment with respect to the allegations made in the claims against defendants Banks, Scudmore, Harmon and Gibson in consolidated case 2:04CV00028.² The Notice of Appeal is interpreted as a Certificate of Appealability.

On July 19, 2005 an Order was entered adopting the Recommendations of the Magistrate granting a *partial* summary judgment on some, but not all the claims alleged in this consolidated case. The Order also granted a *partial* summary judgment with respect to some, but not all of the defendants in this case. A Judgment was not filed because the Order did not represent a final

¹Doc. No. 31 to Consolidated Case #5:04CV00218.

²Doc. No. 113 to Consolidated Case # 2:04CV00028.

adjudication of all claims or an adjudication of the rights and liabilities of all parties.³ Because there is no final Judgment in this case as defined by Fed. R. Civ. P. 54 (b), it is not a final appealable order according to 28 U.S.C. §1291. In view of this, the request for a Certificate of Appealability is DENIED.

IT IS SO ORDERED this 10th day of August, 2005.

/s/ Wm. R. Wilson, Jr.

UNITED STATES DISTRICT JUDGE

³Fed. R. Civ. P. 54(b); *Bullock v. Baptist Memorial Hospital*, 817 F.2d 58, 59 (8th Cir. 1987).